

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRIAN A. WARREN,

Petitioner,

Case No. 1:05-cv-791

v.

Hon. Wendell A. Miles

ANDREW JACKSON,

Respondent.

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ORDER

Petitioner has filed a request for certificate of appealability. Under 28 U.S.C. § 2253(c)(2), the Court must determine whether a certificate of appealability should be granted. A certificate should issue if Petitioner has demonstrated a “substantial showing of a denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The Sixth Circuit Court of Appeals has disapproved issuance of blanket denials of a certificate of appealability. Murphy v. Ohio, 263 F.3d 466 (6th Cir. 2001). Rather, to determine whether a certificate is warranted, the district court must “engage in a reasoned assessment of each claim,” under the standards set forth by the Supreme Court in Slack v. McDaniel, 529 U.S. 473 (2000). Id. Under Slack, 529 U.S. at 484, to warrant a grant of the certificate, “[t]he petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” Id. “A petitioner satisfies this standard by demonstrating that . . . jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” Miller-El v. Cockrell, 537 U.S. 322, 327 (2003). Petitioner claimed that the state trial court lacked subject matter jurisdiction over his felony case and unconstitutionally filed an amended judgment to correct a

computational error pertaining to his sentence. The court finds that reasonable jurists could not find that this court's dismissal of Petitioner's due process claims was debatable or wrong.

Therefore, the court will deny Petitioner a certificate of appealability.

For the foregoing reasons, the court DENIES Petitioner's Request of Certificate of Appealability (docket # 130).

So ordered this 3rd day of June, 2008.

/s/ Wendell A. Miles
Wendell A. Miles
Senior U.S. District Judge